C-482 NO. 40 OF 2003

Hon. Irshad Hussain, J.

Heard Sri Paresh Tripathi, learned counsel for the petitioner and the learned A.G.A.

This is a petition for quashing of the order of the C.J.M., Tehri by which the process under section 82/83 of the Cri.P.C. has been issued against the petitioner. An F.I.R. was lodged against the Assistant Engineer, S.P.Singh and during the investigation name of the petitioner also came into light in connection with embezzlement of public funds. It has been argued that no process as is required to be issued prior to taking recourse to section 82 of Cri.P.C., has been issued by the learned Magistrate and therefore, the impugned order is illegal. It is not disputed that the petitioner had not surrendered himself before the concerned Magistrate. Considering this it is evident that he is avoiding his arrest or surrender in connection with the case pending there. The petitioner at present under suspension, is attached at Lucknow and considering the above contention, the petitioner is given two weeks' time to produce himself and surrender before the Magistrate concerned and till then the process issued under section 82/83 of the Cri.P.C. shall remain suspended. With this, the petition is finally disposed of.

(Irshad Hussain, J.)

25.03.03./B